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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 33744 (Sub-No. 1)]

CSX Transportation, Inc.—Trackage Rights Exemption—Louisville & Indiana Railroad Company

CSX Transportation, Inc. (CSXT) and Louisville & Indiana Railroad Company (LIRC), pursuant to a written trackage rights agreement dated January 1, 2014 (the 2014 Agreement), have agreed to modify the compensation pertaining to overhead trackage rights LIRC previously granted to CSXT¹ under a trackage rights agreement entered into in 2000 (the 2000 Agreement). The trackage rights are over LIRC's line between milepost 110.56, at Louisville, Ky., and milepost 4.0, at Indianapolis, Ind., a distance of approximately 106.5 miles (including the ability to enter and exit the line at Seymour, Ind.).²

The transaction is scheduled to be consummated on or after May 21, 2014, the effective date of the exemption (30 days after the exemption was filed).

¹ See CSX Transp., Inc.—Trackage Rights Exemption—Louisville & Ind. R.R., FD 33744 (STB served June 21, 2001).

² Redacted versions of the 2000 Agreement and 2014 Agreement were filed with the notice of exemption. The full versions of the agreements, as required by 49 C.F.R. § 1180.6(a)(7)(ii), were concurrently filed under seal along with a motion for protective order. That motion will be addressed in a separate decision.

CSXT states that there will be no change in CSXT's operation of the line and that LIRC's operations will not change. According to CSXT, the compensation paid by CSXT to LIRC under the 2000 Agreement consists of a fixed annual fee and a per car fee, adjusted annually for inflation, while under the 2014 Agreement (which will replace the 2000 Agreement), CSXT will: (1) pay LIRC a one-time fee to complete the annual fee payments; (2) pay LIRC a per car-mile fee; (3) allocate maintenance expenses based on use of the line; (4) allocate operating expenses based on use of the line; and (5) include an annual inflation adjustment.

CSXT states that the 2014 Agreement will be superseded³ by the Joint Use Agreement at issue in CSX Transportation, Inc.—Joint Use—Louisville & Indiana Railroad Company, Docket No. FD 35523, if the Board grants the authority sought in that docket.

The purpose of this transaction is to allow CSXT to use the line to serve overhead traffic and to enter and exit the line at Seymour, Ind.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway—Lease & Operate—California Western Railroad, 360 I.C.C. 653 (1980).

This notice is filed under 49 C.F.R. § 1180.2(d)(7). If the notice contains false or

³ Because, as noted below, this notice is filed under § 1180.2(d)(7), not the temporary trackage rights class exemption under § 1180.2(d)(8), separate discontinuance authority will be needed to terminate this trackage rights exemption.

misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed by May 14, 2014 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 33744 (Sub-No. 1), must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

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Decided: May 1, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.